In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.451 of 2007

.....

Date of decision:8.3.2007

Suraj Bhan

.....Petitioner

v.

State of Haryana

.....Respondent

....

Present: Mr. R.C. Chaudhary, Advocate for the petitioner.

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S.S. Saron, J.

This criminal revision petition has been filed against the order dated 17.2.2007 passed by the learned Judicial Magistrate Ist Class, Kurukshetra. In terms of the impugned order the learned trial Magistrate has declined the request of the petitioner to exhibit the documents at the stage of recording his statement under Section 313 of the Code of Criminal Procedure (`Cr.P.C.' - for short).

Learned counsel for the petitioner submits that filing of written statement with documents is permissible at the stage of recording of statement of the accused in terms of Section 313 Cr.P.C. In support of his contention he cites Tilkeshwar Singh and others v. The State of Bihar, AIR 1956 SC 238.

After having heard learned counsel for the petitioner and perusing the paper book, I find no merit in the contention of the learned

counsel. The statement of the petitioner was being recorded in terms of Section 313 Cr.P.C. At that stage the petitioner had sought to prove certain documents written by R.N. Yadav, who is co-accused of the petitioner. The said documents admittedly are not public documents which are per se admissible. The same are to be proved in accordance with the procedure mandated by law for proof of documents. Even otherwise the order declining to exhibit the documents was passed by the learned trial Magistrate on 17.2.2007. It is thereafter on 22.2.2007 that the petitioner filed an application in the form of written statement. In Tilkeshwar Singh's case (supra) it was observed by the Supreme Court that it is no doubt true that Section 342 (now Section 311) Cr.P.C. contemplates an examination in Court and the practice of filing the statements is deprecated but that is not a sound ground for interference unless prejudice is established. Therefore, in the said case the statement of defence has been filed before the examination of the accused in terms of Section 342 (now Section 311) Cr.P.C. In the present case the order declining to produce the documents at the time of recording statement under Section 313 Cr.P.C. was declined on 17.2.2007 and thereafter the written statement was filed on 22.2.2007. Besides, it was held by the Supreme Court that the practice of filing statements is to be deprecated. Be that as it may it has not been shown by the learned counsel for the petitioner as to how documents can be admitted in evidence at the stage of recording statement of the accused in terms of Section 313 Cr.P.C. The purpose and object of Section 313 Cr.P.C. is that the attention of the accused is drawn to every inculpatory material so as to enable him to explain it.

In the circumstances, no ground for interference with the

impugned order dated 17.2.2007 is made out.

For the foregoing reasons, there is no merit in this petition and the same is accordingly dismissed.

March 8, 2007. **(S.S. Saron)**
Judge

hsp